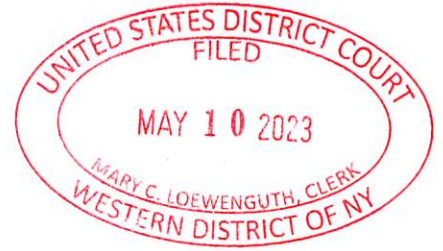


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



AUSTIN GURBACKI,

Plaintiff,

v.

19-CV-1656 (JLS) (HKS)

WALCO ELECTRIC COMPANY, d/b/a
WALCO, *et al.*,

Defendants.

DECISION AND ORDER

Plaintiff Austin Gurbacki commenced this proceeding in New York State Supreme Court, Erie County, asserting various product liability claims stemming from a workplace accident involving a metal rolling mill. Dkt. 1-1. It was removed to this Court on December 10, 2019. Dkt. 1. On January 8, 2020, this Court¹ referred the case to United States Magistrate Judge H. Kenneth Schroeder, Jr. for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Dkt. 17.

Presently before the Court is Judge Schroeder's Report & Recommendation ("R&R") recommending that Defendant Dynics, Inc.'s motion for summary judgment (Dkt. 52) be granted. *See generally* Dkt. 74. No party filed objections, and the time to do so has passed.

¹ This case was originally assigned to Judge Lawrence J. Vilardo, who entered the referral. The case was subsequently reassigned to the undersigned. Dkt. 26.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which objections are not raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

Although not required to do so, this Court nevertheless has reviewed Judge Schroeder's R&R and the relevant record. Based this review, and in the absence of objections, the Court accepts and adopts Judge Schroeder's recommendation to grant the motion for summary judgment.

For the reasons stated above and in the R&R, Dynics Inc.'s motion for summary judgment (Dkt. 52) is GRANTED. The case is referred back to Judge Schroeder for further proceedings consistent with the referral order of January 9, 2020. Dkt. 17.

SO ORDERED.

Dated: May ¹⁰9, 2023
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE